

REMARKS

At the Examiner's suggestion, Applicants have filed herewith a request for continued examination. Applicants also would like to thank the Examiner for granting two telephone interviews on January 29 and February 5, 2003, regarding this application.

In a response to the Final Office Action filed on December 11, 2002, Applicants proposed amending claim 1 to indicate that the composition of this claim contains only one American ginseng extract. In a following Advisory Action dated January 24, 2003, the Examiner objected to the amendment, stating that it "would raise new 112 2nd issues and would require a new search." Applicants subsequently conducted the above-mentioned interviews to discuss this objection. A letter summarizing the first interview was sent to the Examiner on February 3, 2003 prior to the second interview. Applicants have attached hereto a copy of this letter as "Exhibit A". During the second interview, the Examiners agreed that independent claim 1 would be allowed if Applicants recited the phrase "consisting essentially of" to indicate that claim 1 covers a composition containing only one American ginseng extract. The Examiner further suggested filing a request continued examination.

Applicants have amended claim 1 in the manner proposed by the Examiner. Support for this amendment can be found in Example 5 (page 8, line 23 through page 12, line 2), in which Applicants used a composition having only one American ginseng extract to treat peptic ulcer.

Applicants have added new claims 23-37. Support for claims 23, 26, 28-29, 31, 33-34 appears at page 5, lines 18-21 of the specification. Support for claims 24 and 35 can be found at page 4, lines 16-18 of the specification. Support for claims 25, 27, 30, 32, and 36-37 appears at page 5, lines 2-9 of the specification. No new matter has been introduced by the amendments.

Upon entry of the amendments, claims 1, 3, 4-5, 7-9, and 11-37 are pending. Claims 1, 3, 11, and 23-37 are under examination.

In view of the above amendments and the remarks provided in the last response (as well as Exhibit A attached to it), Applicants submit that amended claim 1 is not anticipated by U.S.

Applicant : Feng-Nien Kō et al.
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Patent No. 4,795,742, JP 04316507A, and JP 61109732A. Claims 11 and 23-37 all depend from amended claim 1 directly or indirectly¹, they are therefore also not anticipated by the cited art.

CONCLUSION

Applicants submit that the grounds for the rejection and objection asserted by the Examiner have been overcome, and that claims, as pending, define subject matter that is novel and definite. On this basis, it is submitted that allowance of this application is proper, and early favorable action is solicited.

Attached is a marked-up version of the changes being made by the current amendment.

Applicants ask that all claims be allowed. This supplemental response is being filed concurrently with a Request for Continued Examination with the required fee of \$375.00, a Petition for Three-Month Extension of Time with the required fee of \$410.00 (a Petition for One-Month Extension of Time with the required fee of \$55.00 was previously filed on December 12, 2002), and a check for \$135.00 for excess claim fees. Please apply any other charges to Deposit Account No. 06-1050, referencing Attorney Docket No. 11544-003001.

Respectfully submitted,

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¹ Claims 11 and 23-37 cover pharmaceutical compositions containing an American ginseng extract that is (1) for treating a particular ulcer, (2) filtered through an ultrafiltration membrane with molecular weight cut off 3,000, and/or (3) extracted with a solvent having a polarity higher than 0.88, e.g., 10-80% ethanol aqueous solution or water.

Version with markings to show changes made

In the claims:

Claim 1 and 11 have been amended as follows:

1. (Amended) A pharmaceutical composition for preventing or treating peptic ulcer, comprising:

- (i) an American ginseng extract in an amount effective for preventing or treating peptic ulcer; and
- (ii) a pharmaceutically acceptable carrier;

wherein said American ginseng extract consisting essentially of a preparation obtained by extraction [is extracted] with a solvent, centrifugation [centrifuged], and filtration [filtered] through an ultrafiltration membrane with molecular weight cut off at least 1,000 to give a retentate, and concentration of the retentate [the retentate being concentrated to give the American ginseng extract].

11. (Amended) The pharmaceutical composition of [according to] claim 1, wherein said peptic ulcer is a gastric ulcer or duodenal ulcer.